

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:21-CR-131-M

UNITED STATES OF AMERICA

v.

ANDREW JOSHUA MICHELS,

Defendant.

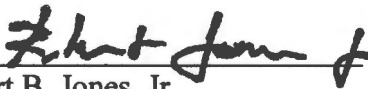
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ORDER

This matter comes before the court on Defendant's waiver of detention hearing currently set for January 10, 2022. [DE-22]. Defendant agrees to waive his right to a detention hearing but requests that this "'waiver' of an immediate detention hearing can be viewed as a request for an indefinite continuance for good cause' and that he be afforded a detention hearing in the future 'within the procedural requirements of section 3142.'" *Id.* (quoting *United States v. Clark*, 865 F.2d 1433, 1437 (4th Cir. 1989)). Defendant's initial appearance was held on December 6, 2021, and at that time Defendant implicitly waived his immediate detention hearing and agreed for his detention hearing to be held on December 13, 2021. [DE-14]. Thereafter the court twice continued Defendant's detention hearing on his motion to the current setting. [DE-19, -20, -21]. The court does not view Defendant's waiver filed on January 7, 2022 as consistent with the waiver of immediate detention hearing in *Clark*. Defendant previously waived his immediate detention hearing on December 6. If Defendant wishes to waive his detention hearing at this point, he should file the appropriate waiver, and he may move to reopen his detention hearing upon the requisite showing. *See* 18 U.S.C. § 3142(f) ("The hearing may be reopened, before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists

that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community.”). Accordingly, the court rejects the waiver as filed and the detention hearing set for January 10, 2022 will go forward absent Defendant filing the appropriate waiver form or upon a showing good cause for a continuance.

SO ORDERED, this the 7th day of January, 2022.


Robert B. Jones, Jr.,
United States Magistrate Judge